



National Aeronautics and  
Space Administration  
Washington, DC 20546

# Procurement Notice

**PN 04-44**  
**September 14, 2009**

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## **POSTING REQUIREMENTS FOR SOURCE SELECTION STATEMENTS**

**PURPOSE:** This PN revises the NASA FAR Supplement (NFS) to provide transparency to the public in the disclosure of source selection decisions and establish a consistent practice across the Agency by requiring Contracting Officers to post a copy of source selection statements to the NASA Acquisition Internet Service (NAIS) electronic posting system.

**BACKGROUND:** Current policy requires the release of source selection statements to competing offerors (i.e. interested parties) and provides that source selection statements are releasable to the general public through the Freedom of Information Act (5 U.S.C. 552, as amended). In order to encourage transparency and promote the release of publicly available information to the greatest extent possible, contracting officers will be required to electronically post copies of the source selection statements.

**GUIDANCE:** Contracting officers shall post a copy of all source selection statements to NAIS within 10 days after the last debriefing has been conducted. As a practice, NASA prepares its source selection statements to be releasable to the public as outlined in PIC 04-10. COs should review the statement for any sensitive or protected information that should not be released. Additionally, any source selection statement to be released or posted shall be reviewed by a representative of either the Office of General Counsel or the Office of Center Counsel or the Center's Freedom of Information Act Officer to ensure the source selection statement does not contain or reveal any information prohibited from disclosure by FAR 24.202 or exempt from release under the Freedom of Information Act (i.e. trade secrets, confidential manufacturing processes or techniques, etc.). Any information exempt from release shall be redacted from the statement, and the redacted statement shall be posted as required herein. If the CO determines that the source selection statement cannot be posted for public viewing because of the sensitive information it contains, the CO shall document the file accordingly.

**ACQUISITIONS AFFECTED BY CHANGES:** This requirement is applicable to all competitive negotiated acquisitions identified in NFS 1815.300-70(a) awarded after the effective date of this procurement notice. Exceptions to this requirement are identified in NFS 1815.300-70(b).

***ACTION REQUIRED BY CONTRACTING OFFICERS:*** Post copies of source selection statements to the NAIS Electronic Posting System within 10 calendar days after the last debriefing has been conducted.

***CLAUSE CHANGES:*** None.

***PARTS AFFECTED:*** Parts 1804 and 1815.

***REPLACEMENT PAGES:*** You may use the enclosed pages to replace 4:5, 4:6, 15:13, and 15:14 pages of the NFS.

***TYPE OF RULE AND PUBLICATION DATE:*** These changes do not have a significant affect beyond the internal operating procedures of NASA and do not have a significant cost or administrative impact on contractors or offerors, and therefore do not require codification in the Code of Federal Regulations (CFR) or publication for public comment.

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Enclosures

**DISTRIBUTION LIST:**  
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### **Subpart 1804.5--Electronic Commerce in Contracting**

#### **1804.570 NASA Acquisition Internet Service (NAIS).**

##### **1804.570-1 General.**

The NASA Acquisition Internet Service (NAIS) provides an electronic means for posting procurement synopses, solicitations, and associated information on the NAIS Internet site which in turn, automatically posts relevant information onto the Governmentwide point of entry (GPE).

##### **1804.570-2 Electronic Posting System.**

- (a) The NAIS Electronic Posting System (EPS) enables the NASA procurement staff to --
  - (1) Electronically create and post synopses on the NAIS Internet site and the GPE; and
  - (2) Post solicitation documents, including solicitation amendments or cancellations, source selection statements, and other procurement information on the NAIS Internet site with linked references on the GPE.
- (b) The EPS maintains an on-line index linking the posted synopses and solicitations for viewing and downloading.
- (c) The EPS shall be used to --
  - (1) Create and post all synopses in accordance with FAR Part 5 and NFS 1805; and
  - (2) Post all competitive solicitation files, excluding large construction and other drawings, for acquisitions exceeding \$25,000; and
  - (3) Post source selection statements in accordance with 1815.308.
- (d) The NAIS is the official site for solicitation postings which in turn, automatically posts relevant information onto the Government-wide point of entry (GPE). In the event supporting materials, such as program libraries, cannot be reasonably accommodated by the NAIS, Internet sites external to NAIS may be established after coordination with the contracting officer. Such sites must be linked from the NAIS business opportunities index where the solicitation resides. External sites should not duplicate any of the files residing on the NAIS.

### **Subpart 1804.6--Contract Reporting**

#### **1804.601 Record requirements.**

The Headquarters Office of Procurement, Analysis Division, is responsible for meeting the requirements of FAR 4.601, based on installation validation and approval of data entered into the Federal Procurement Data System.

- (d)(1) Centers shall ensure that only actions awarded to SBA certified HUBZone small businesses are counted towards HUBZone goal achievement when reporting information in the Federal Procurement Data System (FPDS). Such businesses must be determined by SBA as eligible to receive HUBZone contracts prior to the time of proposal submission.

#### **1804.604 Responsibilities.**

- (c) Centers shall perform statistically-valid comparisons of FPDS data to contract files. The Procurement Officer Certification of Procurement Data Submissions to FPDS and the Results of Statistically Valid Comparison of FPDS Data and Contract Files shall be submitted to the Office of Procurement, Analysis Division by December 15<sup>th</sup> of each year. The templates for these documents can be accessed at:

<http://www.hq.nasa.gov/office/procurement/regs/ProcurementOfficerCertification.doc> and shall be attached to a cover letter forwarding Center submittals. Definitions and specific process requirements are as follows:

(i) Definitions:

**Overall Accuracy Rate** – The percent of all the FPDS data elements sampled which were determined to be correct (the elements matched the corresponding data in the contract files and the data in the contract files were correct). Only compute the overall data accuracy rate for the data elements listed in (D) for the FPDS validation, verification and certification process as required by the Office of Federal Procurement Policy (OFPP). Center validation of additional data elements must be accomplished separately.

**Data Element Accuracy Rate** – The percentage of entries for each selected data element in the sampled contract action records (CARs) that were determined to be correct (the entry matched the corresponding data in the contract file and the data in the contract file was correct). Only data elements appropriate for the type of record being validated should be counted in computing the data element accuracy rate. For example, only count the accuracy of the “Reason for Modification” element in modification records. Data elements that have been optional in FPDS should be validated as though they had been required. Therefore, data elements should only be blank if they do not apply to that record type. Data elements that apply to the type of record being reviewed must not be blank and must be supported by information present in the contract file or contract writing system.

**Total Sample Size** – This is the total number of FPDS CARs selected for comparison to the corresponding contract files. Records will be randomly identified for each Center by the HQ Office of Procurement.

**Percent of Total Center Procurement Spend Covered by Sample** – This is computed by dividing the total obligations associated with the CARs sampled by the total obligations associated with all procurement actions at your Center (excluding grants) during the review period.

(ii) Procedures:

(A) All reportable Center actions must be entered into FPDS. The HQ Office of Procurement will randomly select actions (excluding grants) for data validation and verification from records in the system and provide a list of actions to each Center on or about April 15<sup>th</sup> and October 15<sup>th</sup>. The April list of actions will include awards made October 1 through March 31. The October list will include awards made April 1 through September 30. Centers can establish a schedule for completing the validation and verification as long as the certification and results report is provided as required in 1804.604(c).

(B) Each sampled CAR shall be validated against the associated contract file by an individual other than the contracting officer who awarded the contract or the person entering the contract data for that CAR. While validation of data against the corresponding data in the contract writing system (CWS) may still occur, for the purposes of the validation and verification process, verification must be made against the official contract file for each CAR.

(C) The reviewer(s) must obtain sufficient information to validate any CAR data elements not contained in the contract file or CWS. Data elements that cannot be validated shall be considered incorrect and this includes CAR data elements that match data in the contract file or CWS that the reviewer and his/her supervisor determine to be inaccurate.

(D) The data elements to be reviewed are identified by the names which appear on the FPDS screens and correspond to the data dictionary definition which can be accessed at

proposal is an acceptable proposal. Based on these findings, the SSA shall direct the contracting officer to:

- (1) Award without discussions provided the contracting officer determines that adequate price competition exists (see FAR 15.403-1(c)(1)(ii));
  - (2) Award after negotiating an acceptable contract. (The requirement for submission of cost or pricing data shall be determined in accordance with FAR 15.403-1); or
  - (3) Reject the proposal and cancel the solicitation.
- (b) The procedure in 1815.305-71(a) also applies when the number of proposals equals the number of awards contemplated or when only one acceptable proposal is received.

#### **1815.306 Exchanges with offerors after receipt of proposals.**

(c)(2) A total of no more than three proposals shall be a working goal in establishing the competitive range. Field installations may establish procedures for approval of competitive range determinations commensurate with the complexity or dollar value of an acquisition.

(d)(3)(A) The contracting officer shall identify any cost/price elements that do not appear to be justified and encourage offerors to submit their most favorable and realistic cost/price proposals, but shall not discuss, disclose, or compare cost/price elements of any other offeror. The contracting officer should question inadequate, conflicting, unrealistic, or unsupported cost information; differences between the offeror's proposal and most probable cost assessments; cost realism concerns; differences between audit findings and proposed costs; proposed rates that are too high/low; and labor mixes that do not appear responsive to the requirements. No agreement on cost/price elements or a "bottom line " is necessary.

(B) The contracting officer shall discuss contract terms and conditions so that a "model" contract can be sent to each offeror with the request for final proposal revisions. If the solicitation allows, any proposed technical performance capabilities above those specified in the RFP that have value to the Government and are considered proposal strengths should be discussed with the offeror and proposed for inclusion in that offeror's "model" contract. If the offeror declines to include these strengths in its "model" contract, the Government evaluators should reconsider their characterization as strengths.

(e)(1) In no case shall the contracting officer relax or amend RFP requirements for any offeror without amending the RFP and permitting the other offerors an opportunity to propose against the relaxed requirements.

#### **1815.307 Proposal revisions.**

(b)(i) The request for final proposal revisions (FPRs) shall also:

(A) Instruct offerors to incorporate all changes to their offers resulting from discussions, and require clear traceability from initial proposals;

(B) Require offerors to complete and execute the "model" contract, which includes any special provisions or performance capabilities the offeror proposed above those specified in the RFP;

(C) Caution offerors against unsubstantiated changes to their proposals; and

(D) Establish a page limit for FPRs.

(ii) Approval of the Assistant Administrator for Procurement (Code HS) is required to reopen discussions for acquisitions of \$50 million or more. Approval of the procurement officer is required for all other acquisitions.

(iii) Proposals are rescored or rerated based on FPR evaluations. Scoring or rating changes between initial and FPRs shall be clearly traceable.

#### **1815.308 Source selection decision.**

(1) A Source Selection Decision is a deliberative decision that is documented in the Source Selection Statement, reflecting the thought process behind the selection and representing the independent judgment of the SSA. The SSA has broad discretion in determining the manner and extent to which to make use of the technical, past performance, and cost evaluation results of the evaluation board, subject only to the tests of rationality and consistency with the evaluation criteria identified in the solicitation. The adjectival ratings and numerical scoring presented to the SSA, which represent the evaluation board's relative ranking of proposals within the mission suitability factor cannot be the sole basis for a selection decision. Instead the selection shall be based upon a comparative assessment of the relative discriminators that includes a discussion of the benefits or risks/detriments associated with the discriminators of the selected offeror over all other offerors considering all evaluation factors (i.e. past performance factor, cost/price factor, other non-price factors).

(2) All significant evaluation findings shall be fully documented and considered in the source selection decision. A clear and logical audit trail shall be maintained for the rationale for ratings and scores, including a detailed account of the decisions leading to the selection. Selection is made on the basis of the evaluation criteria established in the RFP.

(3) Before award, the SSA shall sign a source selection statement that clearly and succinctly justifies the selection. Source selection statements must describe: the acquisition; the evaluation procedures; the substance of the Mission Suitability evaluation; and the evaluation of the Cost/Price and Past Performance factors. The statement also addresses unacceptable proposals, the competitive range determination, late proposals, or any other considerations pertinent to the decision. The statement shall not reveal any confidential business information. Except for certain major system acquisition competitions (see 1815.506-70), source selection statements shall be releasable to competing offerors and the general public upon request. The statement shall be available to the Debriefing Official to use in postaward debriefings of unsuccessful offerors and shall be provided to debriefed offerors upon request. The contracting officer shall post the source selection statement on the NASA Acquisition Internet Service (NAIS) Electronic Posting System (EPS) not later than 10 calendar days after the final debriefing has been conducted. The source selection statement shall be posted for a period of not less than 30 days.

(4) Once the selection decision is made, the contracting officer shall award the contract.

#### **1815.370 NASA source evaluation boards.**

(a) The source evaluation board (SEB) procedures shall be used for those acquisitions identified in 1815.300-70(a)(1)(i). The NASA Source Selection Guide provides agency-wide guidance to individuals participating in the Source Evaluation Board (SEB) process and is available at <http://ec.msfc.nasa.gov/hq/library/sourceselection/guide.pdf>.

(b) The SEB assists the SSA by providing expert analyses of the offerors' proposals in relation to the evaluation factors and subfactors contained in the solicitation. The SEB will prepare and present its findings to the SSA, avoiding trade-off judgments among either the individual offerors or among the evaluation factors. The SEB will not make recommendations for selection to the SSA.

(c) Designation.

(1) The SEB shall be comprised of competent individuals fully qualified to identify the strengths, weaknesses, and risks associated with proposals submitted in response to the